

### **Remarks**

Claims 1-3 and 5-15 are pending in the application. Claims 1-3 and 5-15 have been rejected. By this Amendment, no claims have been amended, the specification has been amended, and no new matter has been added. Favorable reconsideration of the claims in view of the amendment to the specification is respectfully requested.

### **Specification Amendments**

By this amendment, a claim of priority to International Application PCT/ES02/00373 (“the International Application”) has been added to the specification. The International Application has an international filing date of July 24, 2002 and was based off of a patent application filed by the same inventors in Spain on August 8, 2001.

Concurrently with the filing of this paper, Applicants have filed with the Petitions Office a Petition To Claim Benefits Under 35 U.S.C. §§ 120 and 365(c) Of A Prior Copending International Application Designating The United States Of America Pursuant to 37 C.F.R. § 1.78(a)(3). Applicants have also tendered the fee specified by 37 C.F.R. § 1.17(t). Accordingly, Applicants submit that the application should be treated as though it had been filed on August 8, 2001 and any prior art considered by the Examiner when examining the application should be dated prior to August 8, 2001.

### **Response To Examiner’s Rejection Of Claims 1, 3, 7, 8, 10, 12 And 15 Under 35 U.S.C. § 103(A) As Being Unpatentable Over Gronbach, Maeda, Akerson And Mahvi In View Of Turner**

Claims 1, 3, 7, 8, 10, 12 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application 2003/0155814 filed by Gronbach (hereinafter “Gronbach”), U.S. Patent No. 6,340,848 to Maeda (hereinafter “Maeda”), U.S. Patent No. 6,344,985 to Akerson (hereinafter “Akerson”) and U.S. Patent Application No. 2003/0036823 filed by Mahvi (hereinafter “Mahvi”). Applicants respectfully traverse this rejection.

The Examiner has combined Gronbach, Maeda, Akerson and Mahvi to reject claims 1, 3, 7, 8, 10, 12 and 15. However, neither Gronbach nor Mahvi are prior art to Applicants' application.

With respect to Gronbach, it is a pending U.S. patent application that did not publish until August 21, 2003. In view of Applicants' priority claim back to August 8, 2001, Gronbach is not prior art. Furthermore, even if Gronbach were to issue during the pendency of Applicants' application, under 35 U.S.C. § 102(e), it still would not be prior art to Applicants' application because its filing date is April 3, 2002.

Similarly, Mahvi is a U.S. patent application that did not publish until February 20, 2003, and is therefore not prior art to this application. Furthermore, even if Mahvi were to issue as a U.S. patent during the pendency of Applicants' application, it still would not be prior art to Applicants' application because its filing date was August 15, 2001, which is subsequent to Applicants' priority date.

Accordingly, neither Gronbach nor Mahvi can be used to support the Examiner's rejection of Applicants' application.

To establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references, when combined, must teach or suggest all the limitations of the claim or claims rejected. MPEP § 2143. Without Gronbach or Mahvi, the Examiner has failed to establish a *prima facie* case of obviousness because the Examiner has not demonstrated that each and every claim element of the rejected claims is disclosed in Maeda and Akerson. Accordingly, Applicants contend that the Examiner's rejection of claims 1, 3, 7, 8, 10, 12 and 15 has been overcome and respectfully request that the Examiner allow these claims to issue.

**Response to Examiner's Rejection Of Claims  
2, 9 and 11 Under 35 U.S.C. § 103(a) As Being  
Unpatentable Over Gronbach, Maeda, Akerson,  
Mahvi, And Further In View Of Nonaka**

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Claims 2, 9, and 11 were rejected under 35 U.S.C. § 103(a) as being obvious over Gronbach, Maeda, Akerson, and Mahvi, and further in view of Japanese Patent 08-111932 A issued to Nonaka (hereinafter "Nonaka"). Applicants respectfully traverse this rejection.

As set forth above, neither Gronbach nor Mahvi are prior art to Applicants' invention. The basis for concluding that neither Gronbach nor Mahvi are prior art to Applicants' application have been set forth above and, for the sake of brevity, will not be repeated here. Without Gronbach or Mahvi, the Examiner has not established a *prima facie* case of obviousness as to independent claims 1 and 10 because of the failure of Maeda and Akerson to teach all recited claim elements. The addition of Nonaka does not supply the missing elements from these independent claims.

Dependent claims 2 and 9 depend from independent claim 1. Dependent claim 11 depends from independent claim 10. Because Maeda, Akerson and Nonaka do not teach all of the elements of independent claims 1 and 10, they necessarily fail to teach all of the elements of independent claims 2, 9 and 11. Thus, the Examiner has failed to establish a *prima facie* case of obviousness as to these dependent claims. Accordingly, Applicants contend that the Examiner's rejection of claims 2, 9 and 11 have been overcome and respectfully request that the Examiner allow these claims to issue.

**Response To Examiner's Rejection Of Claims  
5 And 6 Under 35 U.S.C. § 103(a) As Being  
Unpatentable Over Gronbach, Maeda, Akerson  
And Mahvi And Further In View Of Tamai et al.**

Claims 5 and 6 were rejected under 35 U.S.C. § 103(a) as being obvious over Gronbach, Maeda, Akerson, and Mahvi and further in view of U.S. Patent Publication 2002/0190690 filed by Tamai et al (“Tamai”). Applicants respectfully traverse this rejection.

As set forth above, neither Gronbach nor Mahvi qualify as prior art to Applicants’ invention. Similarly, Tamai is not prior art to Applicants' invention either. Tamai is a pending U.S. patent application that did not publish until December 19, 2002. This is subsequent to Applicants' priority date of August 8, 2001. Furthermore, even if Tamai were to issue during the pendency of Applicants' application, it still would not qualify as prior art because it was not filed in the United States until June 6, 2002, a date which is also subsequent to Applicants' priority date of August 8, 2001.

As set forth in the preceding two sections, the Examiner has failed to establish a *prima facie* case of obviousness as to independent claim 1 because of the unavailability of Gronbach and Mahvi as prior art references and the resulting failure to establish that each element of Applicants’ independent claims are disclosed in the prior art. Tamai fails to supply the missing claim elements needed to render independent claim 1 obvious because Tamai is not prior art to Applicants' application and cannot be used to support a rejection under 35 U.S.C. § 103(a).

Dependent claims 5 and 6 depend from independent claim 1. Because the available prior art references do not establish a *prima facie* case of obviousness as to independent claim 1, they necessarily fail to establish a *prima facie* case of obviousness as to dependent claims 5 and 6. Accordingly, Applicants submit that the Examiner's rejection of claims 5 and 6 have been overcome and respectfully request that the Examiner allow these claims to issue.

**Response to Examiner's Rejection Of  
Claims 13 And 14 Under 35 U.S.C. § 103(a)  
As Being Unpatentable Over Gronbach,  
Maeda, Akerson, Mahvi, And Tamai And  
Further In View of Beihoff et al**

Claims 13 and 14 were rejected under 35 U.S.C. § 103(a) as being obvious over Gronbach, Maeda, Akerson, Mahvi and Tamai and further in view of U.S. Patent Application 2003/0132042 filed by Beihoff et al (hereinafter "Beihoff"). Applicants respectfully traverse this rejection.

As set forth above, neither Gronbach nor Mahvi nor Tamai are prior art to Applicants' invention and are therefore not available to support a rejection under 35 U.S.C. § 103(a). Beihoff is similarly not prior art to Applicants' invention. Beihoff is a U.S. patent application that did not publish until July 17, 2003. This is subsequent to Applicants' priority date of August 8, 2001. Furthermore, even if Beihoff were to issue during the pendency of Applicants' application, its 35 U.S.C. § 102(e) date would be no earlier than September 23, 2002, which is still subsequent to Applicants' priority date of August 8, 2001. Accordingly, for all of the reasons set forth above, which, for the sake of brevity, will not be repeated here, the Examiner has failed to establish a *prima facie* case of obviousness as to Applicants' claims 13 and 14. Accordingly, Applicants submit that the Examiner's rejection of claims 13 and 14 have been overcome and respectfully request the Examiner allow these claims to issue.

